

1
2
3
4
5
6
7
8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. A1 2018 290

13 **LARSON FAMILY MORTUARY,**
14 **ERIK J. LARSON**

DEFAULT DECISION AND ORDER

14 1828 Broadway St., 2nd Fl #C
Santa Monica, CA 90404

[Gov. Code, §11520]

15 **Funeral Establishment License No. FD 2172,**

16 **and**

17 **ERIK J. LARSON**

18 1828 Broadway St., 2nd Fl #C
Santa Monica, CA 90404

19 **Funeral Director License No. FDR 3041**

20 Respondent.
21

22 **FINDINGS OF FACT**

23 1. On or about December 12, 2018, Complainant Sandra Patterson, in her official
24 capacity as the Acting Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department
25 of Consumer Affairs, filed Accusation No. A1 2018 290 against Larson Family Mortuary and
26 Erik J. Larson (Respondent) before the Director of Consumer Affairs (Director). (Accusation
27 attached as Exhibit A.)

28 ///

1 2. On or about May 30, 2013, the Bureau issued Funeral Establishment License No. FD
2 2172 to Respondent. The Funeral Establishment License expired on May 31, 2018, and has not
3 been renewed.

4 3. On or about March 26, 2008, the Bureau issued Funeral Director License No. FDR
5 3041 to Respondent. The Funeral Director License expired on June 18, 2018, and has not been
6 renewed.

7 4. On or about December 26, 2018, Respondent was served by Certified and First Class
8 Mail copies of the Accusation No. A1 2018 290, Statement to Respondent, Notice of Defense,
9 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
10 and 11507.7) at Respondent's address of record which, pursuant to California Code of
11 Regulations, title 16, section 1203, is required to be reported and maintained with the Bureau.
12 Respondent's address of record was and is: 1828 Broadway St., 2nd Fl #C, Santa Monica, CA
13 90404.

14 5. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505(c) and/or Business and Professions Code section 124.

16 6. Government Code section 11506(c) states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense . . . and the notice shall be deemed a specific denial of all
19 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
20 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
21 discretion may nevertheless grant a hearing.

22 7. The Bureau takes official notice of its records and the fact that Respondent failed to
23 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
24 waived his right to a hearing on the merits of Accusation No. A1 2018 290.

25 8. California Government Code section 11520(a) states, in pertinent part:

26 (a) If the respondent either fails to file a notice of defense . . . or to appear at
27 the hearing, the agency may take action based upon the respondent's express
28 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent

 9. Pursuant to its authority under Government Code section 11520, the Director finds
Respondent is in default. The Director will take action without further hearing and, based on the

1 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
2 taking official notice of all the investigatory reports, exhibits and statements contained therein on
3 file at the Director's offices regarding the allegations contained in Accusation No. A1 2018 290,
4 finds that the charges and allegations in Accusation No. A1 2018 290, are separately and
5 severally, found to be true and correct by clear and convincing evidence.

6 10. The Director finds that the actual costs for Investigation and Enforcement are
7 \$2,079.92 as of February 12, 2019.

8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent Larson Family Mortuary has
10 subjected its Funeral Establishment License No. FD 2172 and Erik J. Larson has subjected his
11 Funeral Director License No. FDR 3041 to discipline.

12 2. The agency has jurisdiction to adjudicate this case by default.

13 3. The Director of Consumer Affairs is authorized to revoke Respondent's Funeral
14 Establishment License and Funeral Director License based upon the following violations alleged
15 in the Accusation which are supported by the evidence contained in the Default Decision
16 Evidence Packet in this case:

17 a. Business and Professions Code sections 490 and 7691, in conjunction with California
18 Code of Regulations, title 16, section 1252, in that Respondent was convicted of a crime
19 substantially related to the qualifications, functions or duties of a licensed Funeral Establishment
20 License and a licensed Funeral Director License which to a substantial degree evidences his
21 present or potential unfitness to perform the functions authorized by his license in a manner
22 consistent with the public health, safety, or welfare, as follows:

23 i. On or about June 5, 2018, Respondent was found guilty by a jury and convicted
24 of one felony count of violating Penal Code section 368(d) [theft of \$950.00 or more from an
25 elderly or dependent adult], in the criminal proceeding entitled *The People of the State of*
26 *California v. Erik Joseph Larson* (Super. Ct. Los Angeles County, 2017, No. BA452474).

27 ii. On or about January 18, 2017, after pleading nolo contendere, Respondent was
28 convicted of one misdemeanor count of violating Penal Code section 242 [battery], in the

1 criminal proceeding entitled The People of the State of California v. Erik Joseph Larson (Super.
2 Ct. Los Angeles County, 2017, No. 7WC00236).

3 **ORDER**


4 IT IS SO ORDERED that Funeral Establishment License No. FD 2172, issued to
5 Respondent Larson Family Mortuary, Erik J. Larson, is revoked.

6 IT IS FURTHER ORDERED that Funeral Director License No. FDR 3041, issued to
7 Respondent Erik J. Larson, is revoked.

8 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
9 written motion requesting that the Decision be vacated and stating the grounds relied on within
10 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
11 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

12 This Decision shall become effective on May 2, 2019.

13 It is so ORDERED April 2, 2019

14
15 
16 RYAN MARCROFT
17 Deputy Director, Legal Affairs
Department of Consumer Affairs

18 63132449_2.DOCX
DOJ Matter ID:LA2018602324

19 Attachment:
20 Exhibit A: Accusation
21
22
23
24
25
26
27
28

Exhibit A

Accusation

(LARSON FAMILY MORTUARY and ERIK J. LARSON)

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Senior Assistant Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6322
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. A1 2018 290

13 **LARSON FAMILY MORTUARY,**
ERIK J. LARSON

A C C U S A T I O N

14 1828 Broadway St., 2nd Fl #C
Santa Monica, CA 90404
15 Funeral Establishment No. FD 2172,

16 and

17 **ERIK J. LARSON**
1828 Broadway St., 2nd Fl #C
18 Santa Monica, CA 90404
19 Funeral Director No. FDR 3041

20 Respondent.

21 Complainant alleges:

22 **PARTIES**

23 1. Sandra Patterson (Complainant) brings this Accusation solely in her official capacity
24 as the Acting Bureau Chief of the Cemetery and Funeral (Bureau), Department of Consumer
25 Affairs.

26 2. On or about May 30, 2013, the Bureau issued Funeral Establishment License No. FD
27 2172 to Larson Family Mortuary, Erik J. Larson (Respondent). The Funeral Establishment
28 License expired on May 31, 2018, and has not been renewed.

3. On or about March 26, 2008, the Bureau issued Funeral Director License No. FDR 3041 to Erik J. Larson (Respondent). The Funeral Director License expired on June 18, 2018, and has not been renewed.

JURISDICTION

4. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 118(b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board, Registrar, or Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 7686 of the Code provides that the bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

STATUTORY PROVISIONS

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 7691 of the Code states:

Conviction of a crime substantially related to the qualifications, functions and duties of the license holder in question constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

9. Section 7692 of the Code states:

Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action.

10. Section 7707 of the Code states:

Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action.

11. Section 7709 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISION

12. California Code of Regulations, title 16, section 1252 states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed funeral establishment, licensed funeral director, or licensed embalmer if to a substantial degree it evidences present or potential unfitness of a licensed funeral establishment, licensed funeral director, or licensed embalmer to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Conviction of a crime involving fiscal dishonesty.

(b) Any violation of the provisions of Chapter 12, Division 3 of the Business and Professions Code.

COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

///

///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking Funeral Establishment License No. FD 2172, issued to Larson Family Mortuary, Erik J. Larson;
2. Revoking Funeral Director License No. FDR 3041, issued to Erik J. Larson;
3. Ordering Erik J. Larson to pay the Cemetery and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: December 12, 2018 Sandra Patterson

SANDRA PATTERSON
Acting Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

LA2018602324
63008994_4.docx